

**TENNESSEE BOARD OF PODIATRIC MEDICAL EXAMINERS
MINUTES**

DATE: April 7, 2006

TIME: 9:00 a.m., CST

LOCATION: Cumberland Room
Ground Floor, Cordell Hull Building
Nashville, TN

MEMBERS

PRESENT: David Long, DPM, Chair
Kathryn Riffe, DPM, Secretary
Aaron Perkins, DPM
Berkeley Nicholls, DPM
Karl Fillauer, CPO

MEMBERS

ABSENT: Shannon Bottoms, Citizen Member

STAFF

PRESENT: James A. Hill, Board Administrator
Ernest Sykes, Advisory Attorney
Barbara Maxwell, Administrative Director
Jerry Kosten, Rules Coordinator

Dr. Long, board chair called the meeting to order at 9:00 a.m. A roll call vote was conducted confirming a sufficient number of board members were present to constitute a quorum.

Review Minutes

Upon review of the January 20, 2006, Dr. Nicholls made a motion, seconded by Dr. Perkins, to approve the minutes upon corrected. The motion carried.

Division Rules Coordinator

Mr. Kosten asked the board to consider making the changes, recommended by Sue Sheldon, Senior Counsel, Office of the Attorney General, to the proposed advertising rules previously adopted by the board February 24, 2005.

Mr. Kosten said the model rules and original notice of rulemaking hearing did not include a definition of the term "advertisement" and an introductory policy statement.

Upon review of Ms. Sheldon's memorandum discussion of the proposed changes, Dr. Riffe made a motion, seconded by Mr. Fillauer, to issue an introductory policy statement and amend the rules as suggested including changing the language "podiatry" to "health care professionals." The motion carried.

Mr. Kosten stated the rule pertaining to criminal background checks becomes effective June 1, 2006 and allows applicants to make appointments with Identix by telephone and on line.

Ms. Kosten stated the TBI prepared a new invitation to bid for the criminal background check and extended their contract with Identix through the end of June 2006 which will allow prospective bidders to submit bids.

Conflict of Interest

Mr. Sykes discussed the conflict of interest policy which requires board members to disclose any matter, requiring a vote, that the board member had a prior knowledge to determine if there is a possible conflict of interest. Mr. Sykes said upon disclosure by the board member it will be determined if the board member must recuse his/herself and leave the hearing room.

Schean Belton – Consent Order for Matthew Westerfield

Ms. Belton stated the consent order for Dr. Westerfield was presented to the board in August of 2005; however, due to the board requesting specific information on the drugs prescribed by Dr. Westerfield the order was not ratified. Ms. Belton said Dr. Westerfield is present, with his attorney, to answer any questions.

Upon review of the Consent Order, Dr. Perkins made a motion, seconded by Dr. Riffe, to accept the order as written. The motion carried.

Dr. Long asked why the case against Dr. Lawrence has been postponed for over a year.

Ms. Belton stated she mailed an agreed order to Dr. Lawrence which he denied and Dr. Lawrence received third degree burns in an accident causing additional delays in the case.

Office of General Counsel Report

Mr. Sykes discussed Rules 11552-.02, .04, .08, .12, .22 pertaining to replacing the oral exam with a law exam, advertising, ankle C.E., and lab tests; Rules 1155-2-.04, .05, .08, .14 and 1155-3-.01 pertaining to criminal background checks and exam rule clean-up; Rule 1155-4 pertaining to the new professions, orthotists, prosthetists and pedorthists; and, Rule 1155-2-.01, .03, .11, .12, .19, .21 pertaining to titles, advisory rulings, screen panels and PC-LLC's. Mr. Sykes said the rules are in the Attorney General's Office for review.

Mr. Sykes described the rule process to the new board member, Karl Fillauer, CPO, stating

upon discussion of a rule amendment, the board makes a motion to conduct a rulemaking hearing and Mr. Kosten files a notice of rulemaking hearing. Mr. Sykes said the board conducts a roll call vote on the rule at the next scheduled meeting after the hearing and the rule is sent to the Office of General Counsel to review for legality and the Office of Attorney General for review and approval. Mr. Sykes said upon approval of the rule amendment by the Attorney General it goes to the Secretary of State's Office and becomes a law after seventy-five (75) days. Mr. Sykes stated there are six (6) cases for Podiatrists in the Office of General Counsel. Mr. Sykes stated he researched whether the board can impose exam time limits for reciprocity applicants at the board's request and found that the law does not specifically state the board may impose time limits on its examinations.

Mr. Sykes said applicants applying for licensure through reciprocity must have current licensure in another state which would mitigate the board's concerns.

Dr. Perkins asked if there is anything in the rules or statutes that state you cannot put a time limit on the exam.

Mr. Sykes said there is not a provision in the rules or statutes that specifically state you cannot put a time limit on the exam.

Upon discussion, Mr. Sykes stated he will correspond with Dr. Long to get a clear image of the issues and prepare a written discussion for the next meeting.

Investigative Report

Mr. Sykes said two (2) complaints have been received year to date and four (4) complaints were carried over from 2005, for a total of six complaints. One complaint is for unprofessional conduct.

Disciplinary Report

Mr. Sykes reviewed the disciplinary report stating there are two podiatrists currently being monitored.

Dr. Perkins asked why the report indicates Monica Smedley is still under disciplinary.

Mr. Phelps stated that Ms. Smedley has conditions on her order with which she must comply in order to get her suspension lifted.

Financial Report

Mr. Hill reviewed the financial report stating the board has a cumulative carryover of \$15,338.83.

Administrative Report

Mr. Hill reviewed the administrative report stating there are 222 active licensed podiatrists of whom 191 are practicing in Tennessee and 133 active certified podiatric x-ray operators of whom 125 are practicing in Tennessee.

Mr. Hill asked the board members to record the time they left home and the time they arrived at the Cordell Hull Building to attend the board meeting on their travel claims.

Status Report

Mr. Hill reviewed the status report stating there are 10 podiatrist applications in process, 42 expired applications, 96 voluntarily retired, 3 revoked, 139 failed to renew and 25 deceased.

Dr. Long said as a result of the Government Operations Committee meeting all boards will be sending out a second renewal notice to licensees.

Review Podiatry applications for licensure

Dr. Perkins made a motion, seconded by Dr. Nicholls, to approve the following applicants for licensure by examination and reciprocity:

Examination

Robert Salek
Dagon J. Percer

Reciprocity

Michael R. Baker
Elizabeth T. Lu

The motion carried.

Review X-Ray Operator applications for licensure

Dr. Riffe made a motion, seconded by Dr. Perkins, to approve the following x-ray operators for licensure:

Patricia K. Bailey
Mary H. Butler
Akeyvia S. Ewing
Laura F. Gregory
Katie R. McLendon

The motion carried.

Ratify newly licensed podiatrist and x-ray operators

Dr. Nicholls made a motion, seconded by Dr. Perkins, to approve the following Podiatrist and x-ray operators for licensure:

Podiatrist

Robert J. Wenzler, DPM

X-ray Operators

Patricia Kelli Bailey

Mary Hammond Butler

Laura F. Gregory

Katie R. McLendon

The motion carried.

Other board business

Dr. Perkins asked the board members to review the jurisprudence examination and make any changes. Dr. Perkins said the examination should include orthotists, prosthetists and pedorthists and that he would be glad to make these changes.

Mr. Fillurer stated he agreed with Dr. Perkins and voice his concern that orthotists may take issue with answering questions pertaining to podiatrists.

Dr. Riffe said she thinks podiatrists would take issue with answering questions pertaining to orthotists.

Mr. Sykes reviewed the “go to work” letter he amended for the board.

Dr. Riffe asked that a disclaimer in the letter stating “it is your responsibility as a licensee that it is your responsibility to assure your license is in effect.”

Upon discussion Dr. Perkins made a motion, seconded by Dr. Nicholls, to accept the go to work letter with amendments. The motion carried.

Upon review of the amended podiatry application, Mr. Sykes agreed to make the requested changes regarding prescriptions for presentation at the June meeting.

With no other board business to discuss, Dr. Nicholls made a motion, seconded by Dr. Riffe, to adjourn at 11:17 a.m. The motion carried.